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ABSTRACT

In 1998, the San Francisco Board of Education granted a charter to Edison Schools, Inc., to manage the Edison Charter Academy. In 2001, it commenced a formal investigation of complaints that Edison had materially violated its charter and notified the school of its intent to revoke the charter. This briefing traces the events from the commencement of the investigation to the development of a parent advocacy group. It discusses a possible role for the state in addressing the situation and describes the growing divide between liberal education reactionaries and the minorities they purportedly represent. The major charges included material violations in matters concerning teacher turnover, charter governance, bilingual education, academic achievement, and counseling out of African American, low-income, and special education students. The investigation found that from 1999-2000 the school's academic achievement scores rose at a greater rate than nearly all of the district's 73 elementary schools; African American and Hispanic students improved their scores by 25 percent and 15 percent, respectively; most parents and teachers signed a petition supporting the charter; the shift in minority student populations followed a uniform district-wide trend; and the board could not provide names of African American parents who were counseled out. (Contains 36 endnotes, 5 tables, and 1 figure.) (SM)

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The Fight to Save the Edison Charter in San Francisco

by Diallo Dphrepaulezz

June 2001

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Executive Summary

In June 1998, under the state's charter school law, the San Francisco Board of Education (the "board") granted a charter to New York-based Edison Schools, Inc., formerly Edison LP ("Edison"), effectively turning over management of then Edison Elementary School (coincidentally of the same name).[1] When Edison took over, the school was renamed Edison Charter Academy (the "Edison School" or the "Charter School").

At its February 27, 2001 meeting, the board passed a resolution stating that it had received complaints "that Edison might have materially violated its charter," and commenced a formal investigation into Edison and the Charter School.

On Tuesday March 27, the board voted 6-to-1 to notify the Edison Charter Academy of its intent to revoke the school's charter.

The process is now into the last 30 days—of the 90-day cure period—pending the June 27 deadline for the revocation vote.

This briefing traces the events from the commencement of the investigation into the alleged "Charter violations" to the development of the parents' group which formed to fight the board's attack on their children's school. Each of the board's charges is examined individually, including its case against Edison and the Edison School. This is followed by a discussion of a possible limited role for the state in addressing the debacle, and a brief insight into the growing divide between liberal education reactionaries and the minorities that they claim to represent.

The major charges alleged by the board include "material violations" of the Charter Agreement in matters concerning: teacher turnover, charter governance, bilingual education, academic achievement, and "counseling out" of African-American, low-income, and special education students. The major alleged "violations" were examined and the findings are startling:

- From the 1999 to 2000 school year, Edison Charter Academy's Academic Performance Index (API) scores improved at a greater rate than all but two of the District's 73 elementary schools.[2]
- On the Spring 2000 API results:
  - African-American students improved their scores by 25 percent over their 1999 scores. That base score increase represents the highest average increase for any school in San Francisco with a significant African-American student test-taking population.
  - Latino students improved their scores by 15 percent over their 1999 scores. That base score increase represents the 6th highest average increase out of the 28 schools in San Francisco with a significant Latino student test-taking population.

- When asked how to contact African-American parents who were "counseled out" of Edison Charter Academy, board member Mark Sanchez responded, "we don't have any names."
- The shift in African-American and Latino student populations follows a uniform trend throughout the Mission district and all of San Francisco. Other Mission schools show similar or greater reductions in African-Americans and increases in Latino students.
- Eighty percent of parents whose children attend Edison Charter Academy signed a petition in support of the charter.[3]
- All but one of the Edison School teachers signed a petition to renew the charter, submitted to the board on May 25, 2001.

The Path to Edison Charter

Before the San Francisco School Board granted the Charter, Edison Elementary School was one of the most notable failures in the District. For years the San Francisco Unified School District (SFUSD) had failed to deliver on its obligation to provide a competitive education to students at then Edison Elementary School. Student test scores were among the worst in the state. Former principal Ken Romines recalls "[j]ust coming to school was dangerous. Violence was so commonplace, students expected to get hurt or hurt others, and they said so."[4]

As a result, in June 1998 under the state's charter school law, the San Francisco Board of Education (the "school board" or the "board") granted the charter to New York-based Edison Schools, Inc., formerly Edison LP ("Edison"), effectively turning over management of then Edison Elementary School (coincidentally of the same name). When Edison took over, the school was renamed Edison Charter Academy (the "Edison School"). Although it is privately managed, Edison Charter Academy is a public school. Ironically, Edison's successes now threaten the core of the public system that created the failure in the first place.

Edison Schools, Inc.

According to Edison, the company operates seven schools in California, including the San Francisco site and schools in East Palo Alto and Napa. With average start-up costs of $1.3 million, Edison operates 113 schools in 45 cities nationwide, serving over 57,000 children, and estimates that it will manage 200 schools by fall 2001.

The majority of the Edison schools are located where they are needed most, in America's urban centers. According to Edison officials, nearly 80 percent of the 57,000 students attending its schools nationwide are African-American and Hispanic. Additionally, more than one-third of its management agreements are negotiated with teachers' unions.

The Empire Strikes Back

The change in the composition of the school board, first in the November 1998 elections and again in November 2000, reflects a new anti-charter school regime. Newly installed Superintendent Arlene Ackerman, though not nearly as committed to the board's ideological opposition to parental choice in education, has been reluctant to challenge the board's attack on the Edison Charter Academy.

Charging forward as the guardians of mediocrity, board president Jill Wynns and members Eric Mar and Mark Sanchez advocate sacrificing the children of

the Edison School to ideology. At its February 27, 2001 meeting, the board passed a resolution stating that it had received complaints "that Edison might have materially violated its charter" (*Resolution No. 12-13A12, Wynns, Mar, and Sanchez*). Through the Office of the Superintendent, the board commenced a formal investigation into Edison and the Edison School.

On Tuesday March 27, the board voted 6-to-1 to notify the Edison Charter Academy of its intent to revoke the school's charter. Unmoved by the outpouring of support for Edison, the board ordered the school to "cure deficiencies" within 90 days or face revocation. But, by continuing the investigation throughout the "cure" period, Edison may face new charges while trying to "cure" existing ones. The constitutional problems with this abound.

The process is now into the last 30 days—of the 90-day cure period—pending the June 27 deadline. The events that have taken place since then have culminated in a grassroots movement mounted by parents in an attempt to save their charter school.

If the board revokes the Edison charter after 90 days, it will destroy something it cannot possibly replace. Wynns admits that San Francisco Unified cannot continue to provide the services that Edison now provides to students—the most popular being a school-issued computer in every third, fourth, and fifth grade student's home. "We won't be able to maintain some of the things the school has," said Wynns. She added, "any parent is going to say I want more for my kid. But, at the expense of everyone else? No."[5] This shameless confession reveals the board's willingness to dumb-down all of the District's schools rather than permitting success and innovation to flourish at any one.

The Board's Case against Edison Charter Academy

The Charges

The preliminary findings cite a list of alleged charter violations. The major charges consist of "material violations" of the Charter Agreement in the following matter:

- Teacher turnover
- Governance by Community Council
- Bilingual education
- "Questionable academic success"
- "Counseling out" of African-American students
- Demographic shift away from low-income students
- "Counseling out" of Special Education students

Each of the alleged charges is discussed below (I–VII).

I. Teacher Turnover

Edison, Inc. is the first to admit that there has been high teacher turnover. This was an internal management issue that has since been solved. The agreement resulted in Edison attending to teachers' concerns and giving teachers a raise 10 percent higher than the District base.

It is important to remember that this is a school that, before the Charter, went through two "reconstitutions," a process by which all personnel are vacated and must reapply for their positions. This is the most drastic measure that a district can take against an individual school, next to closing the doors permanently. Further, former principal Ken Romines writes that "teachers were hostile to teachers," and describes pre-Charter teacher turnover as "excessive—50% to 70%" left every year of his two-year tenure at then Edison Elementary School.[6]

On April 25, 2001 all but one teacher signed the petition to renew the Charter for Edison Charter Academy. The one teacher that did not sign is philosophically opposed to signing petitions.

II. Governance by the Community Council

The most troubling aspect of the investigation is its blatant bias. That is no more apparent than where the board relied almost exclusively on the investigation and testimony of Margaret Brodkin, Executive Director of the Coleman Advocates, who accused the Edison School of failing to convene the Community Council (the "Council").[7] The Council is the governing body for the Charter School as required under the Charter Agreement. Brodkin and her organization are publicly opposed to charter schools and have vehemently spoken out against the Edison School for years. She is not affiliated with the SFUSD in any way, nor is she an elected or appointed public official. She is an executive officer of an advocacy organization.

The board neither sent an investigator nor any such representative to the Council meetings—neither a board member nor anyone from the Superintendent's office—but instead relied exclusively on Bodkin's characterization of the one meeting that she attended. Furthermore, in a blatant effort to undermine the Community, the board has refused to ratify the new nominees for the Council, submitted by Edison School Principal Vincent Matthews. Without the approval or consideration of these nominees, the Council is ineffective and cannot function as prescribed by the Charter Agreement.

III. Bilingual Education

The state Consent Decree Monitor, Stuart Biegel, and the Consent Decree Advisory Committee have reported serious concerns with San Francisco Unified's "English Language Learners" ("ELL" or "ELL students") programs ("Excellence for All," Ackerman, 2001). Their objections concern:

- the quality of education provided in those programs;
- the creation of segregated classrooms through separating ELL students from the general student population; and
- the creation of segregated schools through the placement of single race/ethnicity language programs.

The Edison School replaced its traditional Bilingual Education program with a new language "immersion model," called the "World Languages Program." Under the new program, ELL students also receive instruction in Spanish. According to Edison, it has been a resounding success and the Latino population has soared from 170 students in 1998 to 266 students today. No students are segregated. Rather, all students learn together, leaving no student behind. This method of teaching English proficiency is now endorsed by Superintendent Arlene Ackerman's "Excellence for All: A Five-year Comprehensive Plan to Achieve Equity in San Francisco Unified School District."

According to its drafters, "Excellence for All" was designed with the goal of accomplishing two objectives prescribed under the Consent Decree, approved by the court in *San Francisco NAACP v. SFUSD*. "First, to eliminate existing segregation (and vestiges of past segregation) in SFUSD's schools, programs, and classrooms, and second, to improve the academic performance of all students, but particularly those students whose performance has lagged behind others in SFUSD—African-American and Latino students and English Language Learners (ELL)."[8]

IV. Questionable Academic Success

The shameless last vestige of the status quo educrats is to argue that academic progress occurring in an environment predominated by minority students, like the Edison School, is obviously the result of a shift in the proportions of low and middle to upper-income students. That is precisely what the anti-Edison Charter Academy regime continues to assert, even in the face of evidence of student achievement that suggests otherwise.

Even Assistant Superintendent Dr. Roger Tom, lead investigator, admits that those minority students present before the charter and who returned after the charter was in place all showed improvements in their matched test scores (March 26,

2001 Curriculum Committee meeting). Yet, his investigation focused almost entirely on the "unmatched performance" of Edison School students on the API.

Velma Ticas, whose son attended the Edison School under District management (then, Edison Elementary School) and now under the charter, addressed the board at its March 27, 2001 board meeting. In an impassioned plea to save the charter, Mrs. Ticas said, "before [Edison Charter Academy], my son was passed from the second to third grade and he couldn't read." "Now, he is improving dramatically."[9] Mrs. Ticas is the current president of the PTA for the charter school.

It is widely accepted that using matched scores, that track the same students year after year, is one of the most scientific methods for measuring student performance and achievement. Indeed, the numbers speak for themselves. Commissioner Mary Hernandez has repeatedly urged the board to consider the students' matched scores (March 26, 2001 Curriculum Committee meeting).

The API is the cornerstone of the accountability system in California public education. Comparing the results for the 1998–1999 and 1999–2000 school years, Edison Charter Academy's API scores improved at a greater rate than all but two of the District's 73 elementary schools. The percentage of Edison School students tested for Spring 2000 was 95 percent, which ranks as the 13th highest percentage out of all of the 73 San Francisco Elementary Schools listed on the API.[10] Reflected in the Spring 2000 API results, as subgroups:"

- African-American students improved their scores by 25 percent over their 1999 scores. That base score increase represents the highest average increase for any school in San Francisco with a significant African-American student test-taking population (1999 API: 381, 2000 API: 502).[11]
- Latino students improved their scores by 15 percent over their 1999 scores.[12] That base score increase represents the 6th highest average increase out of the 28 public schools in San Francisco with a significant Latino student test-taking population.[13]

The most objective measure of academic success at the Edison School is the progress its students have made since the inception of the charter in the 1998-1999 academic school year. The results from the Stanford 9 Test Series, Ninth Edition (the "SAT 9"), California's mandated standardized test, show that Edison School students posted average gains in national percentile rank that far outstrip both District and state average gains for 1998–1999 to 1999–2000. (See Table 1.) This holds true when compared over a one-year span (Spring '99 and Spring '00) and over a two-year span (Spring '98 and Spring '00).[14]

Table 1 reflects data comparing the results of the same students from year-to-year (same cohort) and the results of the same grade level from year-to-year (successive cohort).

Table 1: Measuring Academic Success, Spring 1999 and 2000 API Results.

	Edison Charter	SFUSD	State of California
1-year same cohort	7.1	2.1	4.2
1-year successive cohort	7.8	3.9	5.3
2-year same cohort	15.6	3.0	8.0
2-year successive cohort	12.4	5.6	9.2

Source: Edison Charter Academy's Response to Superintendent's Notice of Complaints[15]

Table 2: Elementary Schools Near Edison Charter Academy.

	As a % of the student population before Edison Charter	As a % of the student population Fall 2000
Alvarado ES, 625 Douglas St.		
Latino	42.3	43.9
African-American	17.2	11.0
Fairmont ES, 65 Cherney St.		
Latino	43.7	54.2
African-American	30.9	13.4
Flynn ES, 3121 Cesar Chavez St.		
Latino	46.9	57.4
African-American	30.1	21.7

Source: SFUSD School Profiles, multiple years (Fall 1998 to Fall 1999).[17]

V. "Counseling Out" African-American Students

When asked how to contact the African-American parents who were "driven out" of Edison Charter Academy, board member Mark Sanchez responded, "we don't have any names."[16] Actually, having pursued this inquiry further with Dr. Roger Tom, Assistant Superintendent and Liaison to the board, the author of this paper has found no written accounts of parents attesting to either the charges of racism or "counseling out."

The shift in African-American and Latino student populations follows a uniform trend throughout the Mission area and all of San Francisco. The numbers speak for themselves.

That the District is specifically concerned about an influx of Latino students into the Edison School is offensive, or at the least seems woefully unexplained. Moreover, it is important to note if there has been some change in the proportion of low versus middle to upper-income African-American or Latino student enrollment at the Edison School, SFUSD's assignment policies has caused the change.

It is quite simple. Edison Charter Academy cannot, under any circumstances, either admit or deny students seeking to enroll in the Charter School. A student wanting to attend Edison Charter Academy cannot go to the school site at 22nd and Dolores Street and submit an application, much like he or she would apply to a college or university. To the contrary, the student must apply through the District's main office. It is through the District that a student gets assigned to the Edison School, or any other school in the city.

Under the Charter Management Agreement, Edison Charter Academy operates an open enrollment policy. This means a parent has the option to apply to send his or her child to the Charter School, but the District ultimately decides.

District records show that the number of students actually increased from a pre-charter count of 154 to 184 in Fall 1999.[18] According to Edison's records, African-American students' enrollment at the Edison School was 154 students before Edison and 152 as of Fall 1999, a net loss of 2 students. (See Table 3.) Having submitted an inquiry seeking clarity on the District's figure, the Pacific Research Institute recently received a response from Dr. Tom verifying the Edison School's count. Responding for the District, Dr. Tom indicated the following:

- "from the school years 1997–98 to 2001, the percent of African-American students … decreased from 40.6% to 30.0%;" and
- "…the number of African-American students remained basically the same decreasing from 154 to 152."[20]

Elementary schools in the Hunter's Point area of the city show exactly the reverse trend. See Table 4.

Increases in African-American students and significant decreases in Latino students are more pronounced in Hunter's Point schools. This is further evidence of a citywide demographic trend of shifting student populations that reflects increasing Latino and decreasing African-American students. This trend is also evidence that parents are choosing neighborhood schools. The only other explanation is that there is a citywide racial conspiracy in SFUSD—and this is not likely.

Table 3: Ethnic Percentage of Edison Charter Academy K–5, 1997–2001.

	1997–98	1998–99	1999–2000	2000–01
Latino	44.9	40.2	47.5	52.6
African-American	40.6	39.1	33.6	30.0
Other Non-white	11.9	14.7	13.2	14.4
Other White	2.6	6.0	5.7	3.0
Totals	100	100	100	100

Source: SFUSD lead investigator and board liaison, Assistant Superintendent Dr. Tom.[19]

Table 4: Hunter's Point Schools.

	As a % of the student population before Edison Charter	As a % of the student population Fall 2000
Carver ES, 1360 Oakdale Ave.		
Latino	15.1	8.9
African-American	46.2	58.9
Drew ES, 50 Pomona St.		
Latino	15.4	9.7
African-American	39.7	58.1

Source: SFUSD School Profiles.

Table 5: Further Evidence of the Trend—Ethnic Percentage of Fall 2000 Kindergarten Students.

	African-American (%)	Latino (%)
Carver	62.7	5.1
Drew	70.2	6.4
Twenty-First	81.0	9.5

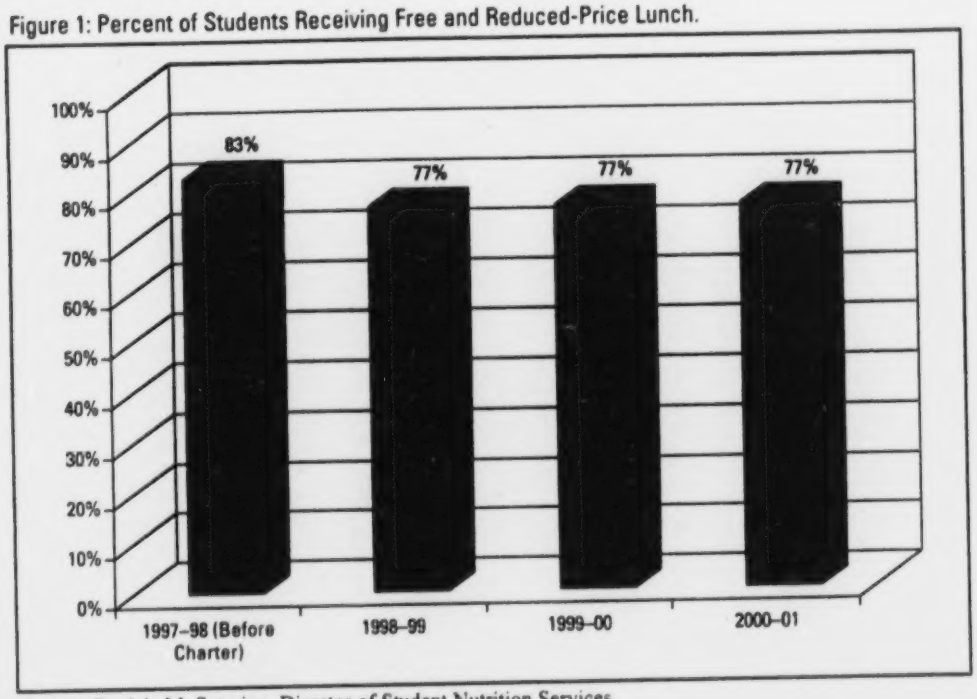
Source: SFUSD School Profiles.

VI. Low-Income Students at Edison Charter Academy

Using free and reduced-priced lunch eligibility as a measure of low-income students, the board charged that the Edison School "counseled out" low-income students. This charge is without merit for two very important reasons. First, there are no complaints from any parents whatsoever about their children being "counseled out." And second, the evidence from the Student Nutrition Services (SNS), an SFUSD department, does not support the board's claim.

According to District records at Student Nutrition Services, 83 percent of Edison School students received free or reduced-priced lunch the year before the charter. By Fall 1999 that figure modestly decreased to 77 percent, a drop of only six percent. See Figure 1.[21]

Figure 1: Percent of Students Receiving Free and Reduced-Price Lunch.



Source: Patricia M. Saturino, Director of Student Nutrition Services.

Student Nutrition Services is the city agency principally responsible for administering the free and reduced-priced lunch program. Additionally, SNS either approves or denies all applicants. According to SNS the most current data available are based on the base school year 1998–99.

> "SNS certified Edison Charter Academy as a Provision 2 School in School Year 1998/1999. Under provision 2, SNS is allowed to use meal criteria in any base year. SNS selected 1998/99 as the base year for its reporting period."[22]

When the author discussed SFUSD's figures for these years with SNS officials, they would not confirm the school board figures.[23] However, the District claims to have data for years that the SNS did not take an accounting (i.e., there are no data available). Moreover, the District insists that its figures are valid even in the face of conflicting SNS figures.

Even more disturbing, board member Mark Sanchez, a former Edison teacher, has resorted to what can be best described as a look-and-see test to determine whether students are low-income or not. Sanchez suggested that if you "look" at the students now at Edison, "you can see that the socioeconomic background has changed."[24] Margaret Brodkin of the Coleman Advocates also insisted that by

"looking" at these African-American and Latino students, somehow one could discern their household income status. Such subjective judgments border on racial profiling.

To reiterate, all students enrolled at Edison Charter Academy are assigned through the main offices at SFUSD. Therefore, any changes in the socio-economic background of incoming students are directly attributable to the District. The Edison Charter Academy has no control over the decisions made by SFUSD. It accepts students assigned to it by SFUSD.

VII. Special Education

The only evidence before the board is a letter from a parent of a special education student offering glowing praise of the program at Edison Charter Academy.[25] There are no complaints filed by parents. The report on Special Education Services at the Edison School submitted to the board concluded that there was no evidence indicating "an attempt to decrease the number of Special Education Students … nor does the data indicate that any attempt was made to intentionally transfer Special Education students out of the school."[26]

Other Alleged Violations

The board has also made allegations concerning Edison's finances and the Jamestown Center after-school program. Because the Jamestown program only served selected grades, it was replaced with a new program that is available to all students. According to the parents' group, nearly all of whose members currently participate in the new program, "parents are satisfied with the new program."

The charter contains an alternative dispute resolution procedure to resolve disparate interpretations of the charter's language. According to Edison, the District has objected to arbitration on matters of interpretation concerning curriculum, financial reporting, student performance, community outreach, and academic goals.

With respect to Edison's finances, Edison's for-profit status was understood to all when the charter was granted. Material issues related to financial reporting should be resolved between the District and Edison. However, SFUSD Chief Financial Officer Cathi Vogel's review of Edison's finances does not conclude that there are any material violations of either the Charter Management Agreement, the Charter, or the Education Code. Vogel's findings are benign, exploratory, and inconclusive:[27]

- discussing "consent decree funding," Vogel concluded that "[t]he agreement is not specific on this issue..." However, she goes on to offer an interpretation founded neither in the Education Code, the Charter, nor the Charter Management Agreement;
- examining "Expenditure Monitoring and Analysis," she concludes that findings "can only be preliminary until there is a determination of intent, if any, of linking expenditures with revenues." She has made no additional follow up determination; and
- Vogel concludes her report characterizing the inquiry itself as merely seeking "clarification on certain unclear points."

Moreover, before the charter, the District neglected the children at Edison Elementary School. Edison Elementary was an "academic pariah" that required a private solution. In his book *A Principal's Story: Two year effort to turn around Edison Elementary School*, pre-charter principal Ken Romines writes:

> "Edison had earned its reputation as an academic pariah ... scores were declining an average of 2.9 years over the six years these youngsters attended Edison. The mean reading level for the 5th-graders was middle to late second grade ... second graders were unable to write a simple sentence...."[28]

Whereas the board should be commended for its courageousness in bringing Edison to San Francisco at that time, it should be condemned for its cowardice in attacking the Edison Charter Academy today.

Test scores have risen, student performance has improved, teacher accountability has increased, and parents are delighted. Educators who claim to have the best interests of children at heart should champion these improvements, which stand in stark contrast to SFUSD failures. Instead of seeking ways to expand this success, they are trying to quash it on purely ideological grounds.

Ideas and Innovation vs. Ideology

School board president Jill Wynns, member Mark Sanchez, and others make no attempt to mask their purely philosophical opposition. For them, the controversy has never been about the children, but only about their personal ideological stance against for-profit entities running a public school. Says Sanchez, "I am philosophically against a [for-profit] corporation running a school."[29]

It is appalling and beyond naivety for Wynns, Sanchez, and others to ignore the fact that the education industry is a multi-billion dollar for-profit industry. The textbook industry alone is a multi-million dollar market. However, textbook manufacturers are not asked to come into the nation's classrooms and prove the

effectiveness of their textbooks. On the other hand, that is exactly what is asked of private for-profit and non-profit education providers. They are held accountable. They can be closed down. This is in stark contrast to the state public school monopoly that has total control over local public education.

With respect to financial reporting, none of the individual non-chartered schools in San Francisco Unified has to provide financial reporting with the level of detail that is required of charter schools, specifically Edison, or with the frequency. In a televised debate on a segment of Arthur Bruzzone's "SF Politics," Wynns had no answer for the author's insistence that she produce a figure for the actual administrative costs of providing public education in San Francisco. Because of the nature of school finance reporting, that number is impossible to ascertain on a per school basis.

Having addressed the board in an open session and dealt with the SFUSD office on numerous occasions, the author has become familiar with its rigid opposition to parental choice in local education. Off-camera, the author invited Wynns to come to the homes of some of the parents and hear their concerns first hand, and to see the faces of the children that they would consign to failure and low expectations in poorly-performing schools under District control. Ms. Wynns declined, and she also refused an invitation to tour the Edison Charter Academy[30] which, according to Edison Charter Academy Principal Vincent Matthews, she has not seen in over a year.

Parents cannot possibly expect new innovations, improved student performance, and higher standards in area public schools when those charged with that task, the School Board, would extinguish one of the brightest beacons of innovation that it has in the Edison Charter Academy. If the board revokes the Edison charter after 90 days, it will destroy something it cannot possibly replace.

Parents Unite To Form "Parents to Save Edison Charter"

What began as a couple of loosely-organized meetings quickly blossomed into an organized and focused parent committee dedicated to saving its neighborhood charter school. Calling themselves "Parents to Save Edison Charter," these parents are poised to fight. Their web site at *www.edisonaction.org* is an empowering war cry for all parents and school choice proponents across the state. Most important, the site, available in English and Spanish, is a rallying point for parents and supporters locally.

Since before the investigation, the author has had the privilege of meeting several of the parents of Edison Charter Academy students. In the beginning, the first few parents were huddled in a small group just in front of the board's conference room at SFUSD headquarters. Since then, the author has spent time in many of their homes as they gathered to discuss the board's action. While anger would probably be the expected reaction from parents wronged by their elected school

board, instead there was a deep sense of betrayal. "Our children are achieving and we are satisfied … that's most important," said Heather Mobley, parent of two Edison School students and now one of the spokeswomen for the parents' group.

Once they began a dialogue on school reform issues, particularly parental choice in local education, it became clear to these parents that the local government education monopoly is the problem. "How can they do this," one parent asked, "how can they decide what's best for my child?"[31]

A Quality Education

The Edison Charter Academy dispute brings to the surface the underlying issues of civil rights, self-determination, and the appropriate role of the state in protecting citizens.

Although states with charter provisions have not gone so far as to create a "right" to a charter school education, the wave of state charter school laws is a clear indication that they deliberately intended to create the option. Where parents have partnered with private business or individual school districts have sought to experiment with charters, they have given charter-school parents at least the same expectations as public-school parents—access to a quality education.

Throughout the late 1980s and 1990s, as demonstrated by court rulings in Kentucky, Texas, Montana, and New Jersey, state courts have shown a marked shift in focus from school finance (a focus on inputs) to concerns of adequacy and quality in education (a focus on outcomes), which is partly responsible for the sweeping reforms in state and local education policy nationwide.[32]

Several state court rulings, though differing in many aspects, show some consistent themes:

- redefining the constitutionally-required level of education a state must provide from a minimum education to a quality education;
- determining constitutional compliance by looking at both input and outcome indicators;
- interpreting the education article of their states' constitutions, opening the door to broad school finance reform across the country; and
- focusing on adequacy in addition to equity, while calling for major systemic reform.

Once a charter is legally put into place, which in California can be done with parental signatures,[33] the parents have an invested property rights interest in the "quality education" their children are receiving at the charter school. Again, the courts have not gone so far as to create a right to a charter school education. However, once a charter is granted, and the quality of education either meets or

exceeds the requirements of the state, the issue of whether parents and students may have a vested property rights interest in retaining the "quality education" that they are getting from their respective charter school is quickly ripening into a matter to be properly determined by a court of law. This particularly applies to whether the state or a local governing agency (school board) may revoke a charter on purely arbitrary grounds.

As evidenced by the board's assault against Edison Charter Academy, this protection is especially vital. In this case, a return to District control will result first in reducing the quality of education, and second, in stripping students of their state constitutional right to an equal [and quality] education.[34] In this case, that happens to be the very state-sanctioned [Charter school] education that they are currently receiving. The state must protect the rights of these and all children.

An Appropriate, Albeit Limited Role for the State

Where, as in the case of the Edison Charter, teachers and/or parents have sought to experiment with the charter option as permitted by law, and the school board acts with indifference to their right to continued enjoyment of a quality education, such indifference is an affront to liberty and unbiased governance. Under these circumstances, the role of the state is quite clear, and the necessity for intervention is overdue. In the years prior to the Charter, the local school board had failed to give then Edison Elementary School students a quality education.

The California Constitution locates responsibility for providing education to all of California's children, together with the responsibility to ensure basic educational equality, in one place: the state itself. Although the state has delegated much of its responsibility to local school districts, that delegation is "not a constitutional mandate, but a legislative choice." (*Butt, 4 Cal. 4th at 688.*)

Because of these and other reasons, the Edison Charter Academy demonstrates a most compelling case for limited state intervention not only to preserve the Charter, but to protect it as well. To do so, it must also prevent the San Francisco School Board from doing anything that makes it either impossible or impracticable for the Charter to operate effectively. That includes preserving the Charter School's use of the SFUSD building and facilities. The Edison School is public and the education is for the benefit of the children of taxpayers, whose taxes pay for District facilities. All parents are entitled to a quality public education for their children, and Edison parents should not be treated any differently.

The Changing Faces of the Debate: New Alliances, Old Rhetoric

The traditional cast of reactionaries that has for years decried the plight of underachieving minorities now finds itself at odds with those same minority groups, particularly African-Americans and Latinos. They had better decide whose side they are on in the new era of school choice—it's either the children or unions.

What is occurring in San Francisco with Edison Charter Academy parents is a reflection of the changing tides of the debate. More than 80 percent of the student body at the Edison Charter Academy is minority, mostly Latino and African-American, groups that reactionaries have traditionally assailed as the victims. Now that these minority groups are demanding choice in education, particularly charter schools, the same activists that once "championed" their rights are now fighting to keep minority children in failing public schools.

Higher test scores are not enough. In response, Edison detractors assert that it cannot possibly be "the same black kids," as argued by board member Mark Sanchez.[35] On the other hand, where minority students perform poorly districtwide, both the school board and the teachers unions complain of lack of funding. This is the kind of classic hypocrisy that minority parents have come to expect from reactionaries who believe that they know what is best for minorities, rather than those minorities know for themselves.

A recent EdSource survey of California school principals revealed that principals of schools serving predominantly poor students, which are also the lowest performing schools based on the state's Academic Performance Index (API), are pessimistic about the outlook for their students. These officials, the survey concluded, "are likely to see student and community characteristics (such as poverty, lack of parent support, and student mobility) as the most significant impediments to meeting state standards."[36] It is tragic that they blame under performing students for their own failure without even so much as questioning either the teaching methods or the integrity of the curriculum.

...And So Goes the Nation

In the ongoing battle in San Francisco, at least one thing about the continued struggle for parent choice in local education is becoming clear. The issues are local and unique to each community. The most affected populations are the least politically sophisticated and most in need of alternatives to their failing local school systems. Low-income and traditionally low-scoring populations from failing school systems, most of whom are predominated by minorities, are forcing a revolutionary current upwards from the grassroots. Given a viable alternative to failing SFUSD schools, minority parents are choosing charter schools.

Notes

1 "Charter Schools Act of 1992," see also California Code § 47600 *www.cde.ca.gov/charter/regs/law_1-1-00.htm.*

2 See raw API score data at *www.api.cde.ca.gov.* The Edison School's overall API score of 552 is a significant improvement over its 1999 score of 465—an improvement of 16 percent.

3 See Appendix J, "Edison Charter Academy Parent Petition," "Preliminary Report of Findings, Investigation into Complaints." March 26, 2001.

4 *A Principal's Story: Two year effort to turn around Edison Elementary School.* Ken Romines, Study Center Press (1997).

5 "S.F. School Board May Move to Yank Edison's Charter," by Julian Guthrie. *San Francisco Chronicle*, January 5, 2001.

6 *A Principal's Story: Two year effort to turn around Edison Elementary School.* Ken Romines, Study Center Press (1997).

7 See "Preliminary Report of Findings, Investigation into Complaints." March 26, 2001. Exhibit A.

8 "Excellence for All: A Five-year Comprehensive Plan to Achieve Equity in San Francisco Unified School District for School Years 2000–01 and 2005–2006." See *www.sfusd.k12.ca.us/index1.html.*

9 Public Comment before the board at a March 27, 2001 board meeting.

10 The California Department of Education (CDE) calculates this percentage by dividing the number of students tested by the number of students enrolled on the first day of testing who are not excused from the test under CDE regulations

11 See API (Base) scores at *http://api.cde.ca.gov/api2000base.*

12 *Ibid.*

13 The California Department of Education (CDE) defines a significant ethnic subgroup as a group of at least 30 students comprising at least 15 percent of the total student population.

14 See CA Dept. of Education (CDE) at *www.star.cde.ca.gov* for raw Spring 1998, 1999, and 2000 SAT 9 test data. The data presented in Table 1 relies on data presented in Edison Charter Academy's response to the Superintendent's notice of complaints dated March 19, 2001 (page 2). The one-year same cohort measures the average increases in SAT 9 NPR mean student score for the same students over the course of one year. The one-year consecutive cohort measures the average NPR increase for the same grade level over the course of one year. The respective two-year data follow the same methodology, except comparing Spring '98 results to Spring '00 results (See page 2 of Edison Charter Academy's response to the Superintendent's notice of complaints dated March 19, 2001).

15 See also *www.star.cde.ca.gov* for raw data.

16 "The shame of San Francisco," by Joan Walsh. March 29, 2001. See also *www.salon.com/news/feature/2001/03/29/edison.*

17 See also *http://orb.sfusd.k12.ca.us/profile and orb.sfusd.k12.ca.us/schdata/hist/hist-517.htm.*

18 See also SFUSD School Profile data at *http://orb.sfusd.k12.ca.us/profile* and *http://orb.sfusd.k12.ca.us/schdata/hist/hist-517.htm.*

19 Faxed communication from Dr. Roger Tom (fax received May 21, 2001). It should also be noted that the population increased from 379 to 506 during this period. However, as the chart shows, the loss of African-American students was a trend, characteristic of all Mission area schools, as was the increase of Latino students.

20 *Ibid.*

21 In response to an initial inquiry about conflicting District data. Personal fax received, May 24, 2001, from Patricia M. Saturino, Director of Student Nutrition Services, clarifying discrepancies on SFUSD School Profile data at *http://orb.sfusd.k12.ca.us/profile* and *http://orb.sfusd.k12.ca.us/schdata/hist/hist-517.htm.*

22 *Ibid.*

23 Telephone conversation with SNS official, May 23, 2001 at 11:30 AM.

24 Remarks made by Commissioner Mark Sanchez on May 24, 2001 following the board's "Charter Renewal" hearing.

25 See "Edison Testimony" by Adrienne Johnson, "Preliminary Report of Findings, Investigation into Complaints." March 26, 2001 (p. 134).

26 See "Preliminary Report of Findings, Investigation into Complaints." March 26, 2001. Appendix H.

27 "Fiscal Analysis and Status Report #2" prepared by Cathi Vogel, SFUSD Chief Financial Officer. March 21, 2001. See p. 40 of SFUSD "Preliminary Report of Findings."

28 Ken Romines, *A Principal's Story: Two year effort to turn around Edison Elementary School*, Study Center Press (1997), p. 14.

29 "Edison is Ground Zero in Education Battle," by Debra J. Saunders. *San Francisco Chronicle*, January 28, 2001.

30 April 10, 2001, the author personally invited Wynns to tour the Edison School.

31 Parent of an Edison School student, Lupe Hernandez, now events coordinator and one of the spokeswomen for "Parents to Save Edison Charter" (February 2001).

32 This is a change from the school finance litigation of the 1960s, consisting primarily of constitutional challenges in federal court alleging that disparate state school finance systems violated the equal protection clause of the U.S. Constitution. These suits were ultimately unsuccessful and culminated in the landmark U.S. Supreme Court Rodriguez decision, which effectively halted further challenges in federal courts.

33 "Charter Schools Act of 1992," see also California Code § 47600 *www.cde.ca.gov/charter/regs/law_1-1-00.htm.*

34 The California Constitution recognizes that "[a] general diffusion of knowledge and intelligence [is] ... essential to the preservation of the rights and liberties of the people...." Cal. Const., art. IX, § 1. Because of this principle, "California has assumed specific responsibility for a statewide public education system open on equal terms to all." *Butt v. State of California*, 4 Cal. 4th 668, 680 (1992).

35 "The shame of San Francisco," by Joan Walsh. March 29, 2001. See also *www.salon.com/news/feature/2001/03/29/edison.*

36 EdSource survey, "Summary of EdSource Standards Survey Findings." May 2001.

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